

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 27 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ABDULKADAR J MEMON

Versus

ABDULSATAR A MEMON

Appearance:

MR PK JANI for Petitioner

MR DJ BHATT for Respondents

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 08/04/97

ORAL JUDGEMENT

Rule. Service of Rule waived by Mr.D.J.Bhatt,
learned Advocate on behalf of respondents.

2. After some amount of submissions the learned
Advocates have consented for remanding the matter to the
trial Court for deciding the Injunction Application Ex.5
on merits after the parties are permitted to file their

respective Affidavits. Following order is, therefore, passed :

The impugned orders passed by the trial Court as also the Appellate Court will stand set aside and the matter is hereby remanded to the trial Court to decide Injunction Application Ex.5 strictly on merits and after considering the material as also the Affidavits placed on record. The trial Court shall, in the first instance, give opportunity to both the parties to file their respective Affidavits. It is made clear that the trial Court's order directing the plaintiff to file Affidavit of defendant No.3 shall stand set aside as it would be obvious that the plaintiff cannot file Affidavit of defendant No.3, the alleged landlord. It will, however, be open to the defendant No.3 to file his own Affidavit either voluntarily or in support of any of the parties. It is also made clear that it will be open to the respondents to deal with the alleged documents and state that they are fabricated. It will also be open to the respondent to take appropriate steps in case it is held that the documents produced by the plaintiff are fabricated. The trial Court shall decide the Injunction Application as expeditiously as possible as stated above.

Rule made absolute only in the aforesaid terms with no order as to costs.

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